

AMENDED IN SENATE APRIL 3, 2008

**SENATE BILL**

**No. 1146**

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**Introduced by Senator Cedillo**

February 4, 2008

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An act to amend Sections 19551 and 19551.1 of, and to add Section 19551.5 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, as amended, Cedillo. Tax administration: disclosure of information: Franchise Tax Board and ~~cities and counties~~ *cities*.

Existing franchise and income tax laws authorize the Franchise Tax Board to permit tax officials of any city that executed an agreement with the board, as provided, to obtain specified tax information from the board. Existing law authorizes the Franchise Tax Board, until December 31, 2011, to disclose to tax officials of any city, subject to certain specified requirements, a taxpayer's name, address, social security or taxpayer identification number, and business activity code, as provided, but limits the use of that information to employees of the taxing authority of a city.

This bill would revise those provisions by deleting that repeal date and by authorizing a city ~~or a county~~ that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board to obtain specified tax information from the Franchise Tax Board, as provided. This bill would also allow a city ~~or county~~ to request any other information from the Franchise Tax Board by using an affidavit, as provided.

This bill would also require ~~cities and counties~~ to annually furnish to the board specified information that is collected in the course of administration of the city's or county's business tax program, as

described. *By imposing additional duties on local agencies, this bill would impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions that reimbursement for these costs shall be provided for at a specified rate in the annual Budget Act beginning in the 2009–10 fiscal year and each fiscal year thereafter. This bill would also provide that, if the Commission on State Mandates or a California court of appellate jurisdiction determines that the costs to local agencies exceeds the specified rate, the provisions of the bill shall be repealed.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 19551 of the Revenue and Taxation Code  
2 is amended to read:  
3 19551. (a) The Franchise Tax Board may permit the  
4 Commissioner of Internal Revenue of the United States, other tax  
5 officials of this state, the Multistate Tax Commission, the proper  
6 officer of any state imposing an income tax or a tax measured by  
7 income or the authorized representative of that officer, or the tax  
8 officials of Mexico, if a reciprocal agreement exists, to inspect the  
9 income tax returns of any taxpayer, or may furnish to the  
10 commission, or the officer or the authorized representative thereof  
11 an abstract of the return or supply thereto information concerning  
12 any item of income contained in any return or disclosed by the  
13 report of any investigation of the income or return. The information  
14 shall be furnished to the Multistate Tax Commission, the federal  
15 or state officer or his or her representative, or the officials of  
16 Mexico for tax purposes only. Except when furnished pursuant to  
17 a written agreement, information furnished pursuant to this section  
18 shall be furnished only if the request is in the form of an affidavit  
19 under penalty of perjury stating that the purpose for the request  
20 relates to an investigation of the tax specified in the request and

that the information will be used in the ordinary performance of the applicant's official duties.

(b) For purposes of this section, "reciprocal agreement" means a formal agreement to exchange information between national taxing officials of Mexico and taxing authorities of the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department. Furthermore, the reciprocal agreement shall be limited to the exchange of information which is essential for tax administration purposes only. Taxing authorities of the State of California shall be granted tax information only on California residents. Taxing authorities of Mexico shall be granted tax information only on Mexican nationals.

SEC. 2. Section 19551.1 of the Revenue and Taxation Code is amended to read:

19551.1. (a) (1) The *Franchise Tax Board* may permit the tax officials of any city ~~or county~~ that enters to enter into a reciprocal agreement with the Franchise Tax Board ~~are authorized~~ to obtain tax information from the Franchise Tax Board, as specified in subdivision (b).

(2) For purposes of this section, "reciprocal agreement" means a formal agreement to exchange information for tax administration purposes between tax officials of a city ~~or county~~ and taxing authorities of the Franchise Tax Board.

(b) The information furnished to tax officials of a city ~~or county~~ under this section shall be limited as follows:

(1) The tax officials of a city ~~or county~~ are authorized to receive information only with respect to taxpayers with an address as reflected on the Franchise Tax Board's records within the jurisdictional boundaries of the city ~~or county~~, ~~as applicable, that~~ who report income from a trade or business to the Franchise Tax Board.

(2) The tax information that may be provided by the Franchise Tax Board to a city ~~or county~~ is limited to a taxpayer's name, address, social security or taxpayer identification number, and business activity code.

(3) Tax information provided to the taxing authority of a city ~~or county~~ may not be furnished to, or used by, any person other than an employee of that taxing authority.

(4) The information provided to the tax officials of the city ~~or county~~ by the Franchise Tax Board under this section is subject

1 to Section 19542, and may not be used for any purpose other than  
2 the city's ~~or county's~~ tax enforcement, or as otherwise authorized  
3 by ~~state or federal~~ law.

4 (5) Section 19542.1 applies to this section.

5 (c) *The Franchise Tax Board may not provide any information*  
6 *pursuant to this section until all of the following have occurred:*

7 (1) *An agreement has been executed between a city and the*  
8 *Franchise Tax Board, that provides that an amount equal to all*  
9 *first year costs necessary to furnish the city information pursuant*  
10 *to this section shall be received by the Franchise Tax Board before*  
11 *the Franchise Tax Board incurs any costs associated with the*  
12 *activity permitted by this section. For purposes of this section, first*  
13 *year costs include costs associated with, but not limited to, the*  
14 *purchasing of equipment, the development of processes, and labor.*

15 (2) *An agreement has been executed between a city and the*  
16 *Franchise Tax Board, that provides that the annual costs incurred*  
17 *by the Franchise Tax Board, as a result of the activity permitted*  
18 *by this section, shall be reimbursed by the city to the board.*

19 (3) *Pursuant to the agreement described in paragraph (1), the*  
20 *Franchise Tax Board has received an amount equal to the first*  
21 *year costs.*

22 ~~(e)~~

23 (d) Any information, other than the type of tax information  
24 specified in subdivision (b), may be requested by the tax officials  
25 of a city or county from the Franchise Tax Board by affidavit. At  
26 the time a tax official makes the request, he or she shall provide  
27 the person whose information is the subject of the request, with a  
28 copy of the affidavit and, upon request, make the information  
29 obtained available to that person.

30 ~~(d)~~

31 (e) This section does not invalidate any other law. This section  
32 does not preclude any city or county from obtaining information  
33 about individual taxpayers, including those taxpayers exempt from  
34 this section, by any other means permitted by state or federal law.

35 ~~(e)~~

36 (f) Nothing in this section shall be construed to affect any  
37 obligations, rights, or remedies regarding personal information  
38 provided under state or federal law.

39 (g) *Notwithstanding subdivision (c), the Franchise Tax Board*  
40 *shall waive a city's reimbursement of the Franchise Tax Board's*

1 *cost if a city enters into a reciprocal agreement as provided in*  
2 *paragraph (2) of subdivision (a). The reciprocal agreement shall*  
3 *specify that each party shall bear its own costs to furnish the data*  
4 *involved in the exchange authorized by this section and Section*  
5 *19551.5, and a city shall be precluded from obtaining*  
6 *reimbursement as specified under Section 4 of the act adding this*  
7 *subdivision.*

8 SEC. 3. Section 19551.5 is added to the Revenue and Taxation  
9 Code, to read:

10 19551.5. (a) Notwithstanding any other law, each city ~~or~~  
11 ~~county that assesses, respectively, a city or county that assesses a~~  
12 ~~city business tax or requires a city or county business license shall~~  
13 ~~annually furnish~~ submit to the Franchise Tax Board the information  
14 that is collected in the course of administration of the city's ~~or~~  
15 ~~county's~~ business tax program, as described in subdivision (b).

16 (b) Information, collected in the course of administration of the  
17 city's ~~or county's~~ business tax program, shall be limited to the  
18 following:

19 (1) Name of the business, if the business is a corporation,  
20 partnership, or limited liability company, or the owner's name if  
21 the business is a sole proprietorship.

22 (2) Business mailing address.

23 (3) Federal employer identification number, if applicable, or  
24 the business owner's social security number.

25 (4) Standard Industrial Classification Code (SIC) or North  
26 American Industry Classification System (NAICS) Code.

27 (5) Business start date.

28 (6) Business cease date.

29 (7) ~~City or county number, as applicable:~~ *number.*

30 (8) Ownership type.

31 (c) The reports required under this section shall be filed on  
32 magnetic media such as tapes or compact discs, through a secure  
33 electronic process, or in other machine-readable form, according  
34 to standards prescribed by regulations promulgated by the  
35 Franchise Tax Board.

36 (d) ~~Cities and counties~~ shall begin providing to the Franchise  
37 Tax Board with the information required by this section as soon  
38 as economically feasible, but no later than December 31, 2009.  
39 The information shall be furnished annually at a time and in the  
40 form that the Franchise Tax Board may prescribe by regulation.

1 (e) The city or county data provided to the Franchise Tax Board  
2 under this section is subject to Section 19542, and may not be used  
3 for any purpose other than state tax enforcement or as otherwise  
4 authorized by law.

5 (f) *If a city enters into a reciprocal agreement with the Franchise*  
6 *Tax Board pursuant to subdivision (a) of Section 19551.1, the city*  
7 *shall also waive reimbursement for costs incurred to provide*  
8 *information required under this section and shall be precluded*  
9 *from obtaining reimbursement as specified under Section 4 of the*  
10 *act adding this subdivision. The reciprocal agreement shall specify*  
11 *that each party shall bear its own costs to furnish the data involved*  
12 *in the exchange authorized by Section 19551.1 and this section,*  
13 *and the Franchise Tax Board shall be precluded from obtaining*  
14 *reimbursement as specified under subdivision (c) of Section*  
15 *19551.1.*

16 ~~SEC. 4. If the Commission on State Mandates determines~~  
17 ~~that this act contains costs mandated by the state, reimbursement~~  
18 ~~to local agencies and school districts for those costs shall be made~~  
19 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
20 ~~4 of Title 2 of the Government Code.~~

21 *SEC. 4. (a) Reimbursement to local agencies for those costs*  
22 *mandated by the state pursuant to this act shall be provided for*  
23 *beginning in the 2009–10 fiscal year and each fiscal year*  
24 *thereafter, by an appropriation in the annual Budget Act.*  
25 *Reimbursement for costs mandated by the state pursuant to Section*  
26 *19551.1 of the Revenue and Taxation Code, as added by this act,*  
27 *shall be for actual costs incurred by the local agency to provide*  
28 *records in the manner prescribed by the Franchise Tax Board, not*  
29 *to exceed a rate of one dollar (\$1) per usable record submitted by*  
30 *the local agency to the Franchise Tax Board beginning in the*  
31 *2009–10 fiscal year. The rate shall be annually adjusted in the*  
32 *Budget Act for the implicit price deflator.*

33 *(b) In the event of a determination by the Commission on State*  
34 *Mandates or a final judicial determination by a California court*  
35 *of appellate jurisdiction that the costs mandated by the state*  
36 *pursuant to this act exceed the rate provided for by subdivision*  
37 *(a), this act shall be repealed 90 days after the date on which the*  
38 *Commission on State Mandates adopts the statement of decision*  
39 *or 90 days after the date on which the first such judicial*  
40 *determination becomes final.*

1     (c) *This act shall not be repealed pursuant to subdivision (b) if*  
2 *the Director of Finance files a written Notice of Intent to Appeal*  
3 *with the Commission on State Mandates within 90 days of the*  
4 *adoption of a statement of decision finding that the costs mandated*  
5 *by the state pursuant to this act exceed the rate provided for by*  
6 *subdivision (a). The Notice of Intent to Appeal shall consist of a*  
7 *written notice setting forth the intention of the Director of Finance*  
8 *to seek judicial review of the decision of the Commission on State*  
9 *Mandates.*

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